

SMALL CLAIMS FILING INSTRUCTIONS

Napa Superior Court

Small Claims Court Basics

Monetary Limits for Small Claims Court: The amount in dispute may not exceed \$5,000. You may file as many claims as you wish for up to \$2,500 in small claims court, but are limited to 2 claims for up to \$5,000 each calendar year. If you are suing a guarantor, you may sue for a maximum of \$4,000 (or \$2,500 if the guarantor does not charge for the service). A guarantor is one who promises to be responsible for the debt or default of another. The filing fee is \$22 unless you have filed more than 12 claims in one court within the past 12 months. Then it is \$38.50. You may not split your claim to make it meet the limit, but you can reduce it if you wish.

The Parties Present Their Cases Themselves: An attorney may not represent you in court, although you may consult an attorney before you go to court or after.

Cases Are Heard Quickly: If you and the person you are suing live within the same county, your case will be heard within 40 days of the date you filed your claim. If the person you are suing lives outside your county, your case will be heard within 70 days.

Typical Cases: Typical cases involve, but are not limited to, auto accidents, property damage, landlord/tenant disputes, and the collection of personal debts.

The Hearing: Your case will be heard by a small claims court commissioner, a temporary judge, or a judge. A commissioner has all the responsibilities and powers of a judge. A temporary judge (judge pro tem) is an attorney who volunteers his or her time to hear and decide cases. A temporary judge also has all the responsibilities and powers of a judge. At the beginning of the court session you may object to the temporary judge and ask that your case be heard by a judge. Each party will have a chance to tell his or her side of the story. It's important to bring evidence such as photos, witnesses, bills, receipts, contracts, or anything else that will prove your case. The judge may decide the case at the time of the hearing or mail it to the parties later.

If You Want to Appeal a Decision: If you are the plaintiff and you lose a claim you filed against the defendant, you may not appeal. However, occasionally, the defendant will file a claim against you and the hearing may be scheduled on the same day as your claim against the defendant. If you lose the claim the defendant filed against you, you may appeal that judgment. You may not appeal the decision on your own claim. A defendant who loses can appeal the judgment.

If any party appeals, there will be a new trial on all the claims. If you appeared at the trial, you must begin your appeal by filing a form called a *Notice of Appeal* and pay the required fees within 30 days after the date this *Notice of Entry of Judgment* was mailed or handed to you at the time of the small claims hearing. Your appeal will be in the superior court. You will have a new trial and you must present your evidence again. You may be represented by a lawyer at the appeal hearing.

GENERAL INFORMATION – NAPA SUPERIOR COURT

CONTACT INFORMATION

Location: Napa Superior Court, Civil Division, 825 Brown Street, Rm. 125, Napa, CA 94559
Telephone: (707) 299-1131
Filing Hours: 8:00 AM to 4:30 PM (arrive no later than 4:15 to allow 15 minutes for processing)

Small Claims Advisor: TELEPHONE ONLY: (707) 253-4524, Tuesdays and Wednesday, 1:00-3:00 PM

WEB LINKS:

1. **California Courts Self-Help Center-Recommended**
<http://www.courtinfo.ca.gov/selfhelp/smallclaims/scbasics.htm>
2. **Forms for Small Claims-Judicial Council Website**
<http://www.courtinfo.ca.gov/cgi-bin/forms.cgi>
3. Napa Superior Court-select Civil and then Small Claims
<http://www.napa.courts.ca.gov>
4. Consumer Affairs
www.dca.ca.gov
5. Secretary of State-Search for Agent of Process
<http://www.ss.ca.gov/business/corp/corporate.htm>

FEES (Checks to be made payable to Napa Superior Court)

1. \$22.00 per Claim for filing
2. \$38.50 for any party filing the 13th and any additional claim within a 12 month period.
3. \$10.00 for a Request for Continuance
4. \$70.00 & \$11.00 (must be separate checks) for Notice of Appeal
5. \$15.40 for Motion to Vacate Judgment & all other small claims motions

TIME FOR SERVICE: Service of the claim and order on the defendant shall be completed at least 15 days before the hearing date if the defendant resides within the county in which the action is filed, or at least 20 days before the hearing date if the defendant resides outside the county in which the action is filed.

OPTIONS FOR SERVICE ON DEFENDANT(S)

- a) **BY COURT:** \$5.00 per Defendant/Address. This is the ONLY service provided by the Court, it is by certified mail. Please note however Defendants are not required to accept certified mail.
- b) **BY SHERIFF:**
 1. FEES: \$30.00 per each Defendant served in Napa County. Make checks payable to the Sheriff's Department for whichever county is doing the service. Contact counties outside of Napa for specifics as to their county regarding service. Proof of service will be provided.
 2. TELEPHONE: Napa Sheriff - Civil (707) 253-4325
 3. STRICT TIME LIMITS FOR SERVICE – Do not delay in contacting the Sheriff to arrange for service
 4. ADDITIONAL COPIES TO BE PROVIDED TO SHERIFF: Provide (1) copy for each Defendant requiring service.
- c) **SERVICE BY PRIVATE PROCESS SERVER.** Process servers are located in the telephone directory. Unfortunately we cannot recommend any specific server. These process servers will provide a Proof of Service to you.
- d) **A FRIEND, NEUTRAL PARTY AND A PERSON NOT A PARTY TO THE ACTION** may serve the complaint. This person must be a US citizen and over the age of 18. A witness is generally considered a party to the action.

INSTRUCTIONS FOR FORM COMPLETION

Plaintiff's Claim is a legal document. Please do NOT fold or crease before filing documents with the Court. Type your name, address, city and state under *Plaintiff*, on the left side of document. Type Defendant(s) name, address, city and state under *Defendant*, on the right side of document. Telephone numbers for both Plaintiff and Defendant also must be on this form.

Using typewriter or pen, answer questions No. 1 through 6. On No. 4, for an explanation of this term, see the reverse side of the page. Date, print your name and sign where indicated. Please include phone numbers on the front page under the party's names.

Plaintiff's Statement to Clerk: Fill out completely in pen or by typewriter. This form requires two signatures. The last line regarding type of service is for Court use only, do NOT fill out.

Agent of Process: Definition: An agent for service of process is an individual (or another corporation) designated by a corporation to accept service of process if the corporation is sued.

You must list the Agent of Process on the defendant side of the Claim. SEPARATE THE AGENT FROM THE DEFENDANT'S NAME BY THE WORDS "Agent of Process for the above named Defendant is (insert name)". If not a corporation, you must list the owner's name and the name of the business. An actual PERSON must be served to appear in Court.

WHAT IF I AM SUING A CORPORATION?

For checking corporate status, including determining the Agent of Process, your options are:

1. On the Web, go to: <http://www.ss.ca.gov/business/corp/corporate.htm>
Select *California Business Search* under *Corporations*, and then enter the name of your corporation under the first selection, Corporations.
2. Send your written request to the Secretary of State, Information Retrieval/Certification Unit (IRC), 1500 11 Street, 3rd Floor, Sacramento CA 95814. Telephone: 916-653-7315. Mail your request along with a \$4.00 check, for each corporate inquiry, made payable to the Secretary of State. Include a stamped self-addressed envelope. (see enclosed handout)

FILING BY MAIL –INFORMATION TO BE SUBMITTED

- a) Do not fold packet. Please send in an 8 ½ by 12 inch envelope.
- b) It is necessary to include a self-addressed, stamped return envelope for your copy and receipt
- c) Instructions on how you want the defendant(s) served. If you want service by a county sheriff, please include a separate check made payable to whichever county is doing the service and instructions as to who and where the defendant(s) is to be served. In the instructions, print your name, signature, address and a daytime telephone number, together with a self addressed envelope with the correct postage.
- d) The dates you are NOT available for Court
- e) Which location you want your case heard (Napa, St. Helena or Calistoga)
- f) What time slot you would prefer: Napa, 3:00 PM or 5:00 PM; St. Helena is only @ 10:00 AM and Calistoga is currently only at 9:00 AM
- g) INCLUDE FILING FEE and the fee for service by the Court if that option is selected

OUT OF STATE FILINGS

Please be sure to contact the Legal Adviser who is available by Telephone **ONLY**. (707) 253-4524. Tuesdays & Wednesdays from 1:00 PM to 3:00 PM

CONTINUANCES

A request for continuance must be made at least 10 days prior to the scheduled hearing date and good cause must be shown. Send a \$10.00 postponement fee made payable to Napa Superior Court along with a letter with showing good cause as to why you are unable to appear at your court hearing. On the date of making the written request, the requesting party shall mail or personally deliver a copy to each of the other parties to the action. Please include the first, second and third choices you are available. Please include case number and a daytime phone number. You will receive a response in the mail as to your request.

CASE SETTLED? PAYMENT RECEIVED BEFORE COURT DATE?

If your case settles prior to your hearing date, you receive payment and are satisfied, the form, REQUEST FOR DISMISSAL (Judicial Council form 982(a)(5)) must be filed. This form is included in the packet you received. Please mail to: Napa Superior Court, Small Claims Division, 825 Brown Street, Napa, CA 94559

EVIDENCE SUBMITTED AT THE TIME OF THE HEARING

You should retain all your originals of any documents or other evidence, these will be what is submitted as actual evidence during the hearing. Copies of any evidence should be made for the Court and the Defendant if necessary. All original evidence filed with the Court will be returned to you at the end of the hearing, unless the judge takes the trial under submission and intends to issue a written ruling.

RECEIPT OF JUDGMENT FORM FOLLOWING HEARING

Following the court hearing and if a judgment was announced at the court hearing, a written form will be mailed to you in the form of a Judgment. Instructions will be on the back of the Judgment further instructing you on how to pursue your claim.

RECEIVED PAYMENT AFTER COURT HEARING?

If, following the court hearing and the court making a ruling, the Defendant makes payment to you, the form "Satisfaction of Judgment" must be filed with the court. This form is on the *reverse* side of the Notice of Entry of Judgment. Please mail to: Napa Superior Court, Small Claims Division, 825 Brown Street, Napa, CA 94559

WHEN AND WHERE WILL MY SMALL CLAIMS BE HEARD?

If you and the person you are suing live within the same county, your case should be heard within 40 days of the date you filed your claim. If the person you are suing lives outside your county, your case will be heard within 70 days.

NAPA: Wednesday @ 3:00 & 5:00 PM, 825 Brown Street, Napa CA (enter on 2nd Street)

ST. HELENA: First & third Thursday of each month @ 10:00 AM, 1360 Oak Street, St. Helena, CA

CALISTOGA: First & third Thursday of each month @ 9:00 AM, 1307 Washington Street, Calistoga CA